

REMARKS/ARGUMENTS

The Office Action mailed April 10, 2006 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment to the Claims

Claims 74-75, 77-80, 82-83, 85-88, 90-91, 93-96, 98-99, 101-104, and 106-109 are now pending. No claims stand allowed.

Claims 76, 81, 84, 89, 92, 97, 100, and 105 have been canceled by this amendment, without prejudice.

Claims 74-75, 77-78, 80, 82-83, 85-86, 88, 90-91, 93-94, 96, 98-99, 1-2-102 and 104 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, for example, page 7, paragraph [0012], page 19, paragraph [0032], page 22, paragraph [0043], and FIG. 11A. The amendment also contains minor changes of a clerical nature. The text of claims 79, 87, 95, and 103 is unchanged, but their meaning is changed because they depend from amended claims.

New claims 106-109 have been added, which also particularly point out and distinctly claim subject matter regarded as the invention.

No “new matter” has been added by the amendment.

Amendment to the Specification

The specification has been amended to correct minor typographical errors. No new matter has been introduced by this amendment.

The 35 U.S.C. § 101 Rejection

Claims 82-97 stand rejected under 35 U.S.C. §101 as claiming inventions allegedly directed to non-statutory subject matter. The Examiner specifically alleges that the lookahead processor, pattern storage and response cache can be all software and thus the claims are broad to encompass software *per se*. This rejection is respectfully traversed.

If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760.

Here, claims 82-97 (claims 84, 89, 92 and 97 have been canceled, without prejudice) are directed to “apparatus” which is a physical thing, and thus not a computer program as computer listings *per se*. The terms “memory” and “processor” are neither specifically defined in the present specification, nor being used in a manner contrary to or inconsistent with one or more of their ordinary meanings. Thus, the terms “memory” and “processor” should be construed as hardware components of the apparatus, which is consistent with their ordinary meanings, as is well understood by those of ordinary skill in the art. Furthermore, independent claims 82 and 90 have been amended so as to more clearly defines the physical structure in terms of the combination of hardware (memories and processors) and software (computer program modules running on the apparatus). Accordingly, it is respectfully requested that the §101 rejection be withdrawn.

The 35 U.S.C. §103 Rejection

Claims 74-75, 79, 82-83, 87, 90-91, 95, 98-99 and 103 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable in view of Chen, et al. (U.S. Pat. No. 6,076,107) and further in view of Williams (U.S. Pat. No. 6,151,630), among which claims 74, 82, 90, and 98 are independent claims. This rejection is respectfully traversed.

According to M.P.E.P. §2143,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Claim 74 defines a method for predictively responding to a network management data request. The claimed method comprises (a) receiving a first network management data request, (b) determining if said first network management data request matches a pattern of request defined in a memory, the pattern including one or more expected management data requests, (c) determining if data responsive to said first network management data request is contained in a cache of prefetched network management data if said first network management data request matches a pattern defined in said memory,

(d) sending a response including said data responsive to said first network management data request, if said data responsive to said first network management data request is contained in said cache and if said first network management data request matches a pattern defined in said memory, and (e) collecting, if said first network management data request matches a pattern defined in said memory, data responsive to any remaining network management data requests in the matched pattern, as recited in claim 74 as amended.

In the Office Action, the Examiner specifically contends that the elements of the presently claimed invention are disclosed in Chen except that Chen does not teach determining if a request contains a defined pattern. The Examiner further contends that Williams teaches a page request from a user specifying a URL which invokes a processor to check a cache memory for a page corresponding to the URL, and that it would be obvious to one having ordinary skill in the art at the time of the invention to incorporate Williams into Chen “in order to enable a copy of set of data into a cache memory to service a user’s request” (Office Action, page 5). The Applicants respectfully disagree for the reasons set forth below.

As recited above, in the claimed invention includes, among others, determining if a received first network management data request matches a pattern of request defined in a memory, the pattern including one or more expected management data requests, and if the first network management data request matches a pattern defined in the memory, collecting data responsive to any remaining network management data requests in the matched pattern, as recited in claim 74 as amended.

On the other hand, in Chen, whenever a new GetRequest is issued by the Manager, a new set of data is retrieved from the Instrumentation (Abstract thereof, emphasis added). Thus, as the Examiner noted in the Office Action, Chen fails to disclose determining if a received first network management data request matches a pattern of request defined in a memory, before retrieving the data.

More specifically, Chen describes its data retrieval as follows:

The method comprises the step of retrieving from the Instrumentation an entire row of data from an SNMP table whenever a GetRequest or GetNextRequest Protocol Data Unit (PDU) is issued by the Manager to the Agent. A SubAgent saves this row in anticipation of a subsequent request for another column in this same row thereby eliminating the need for further Instrumentation message flows for further data retrieval from this row. Whenever a new GetRequest specifying a new row is issued by the Manager, a new set of data (a new row) is retrieved from the Instrumentation while the previously stored row of data is discarded. The method further comprises the step of retrieving the next subsequent data item (the entire row) in response to a GetNextRequest against the last row in a given column thereby eliminating the need for a second message exchange at an "end of column" condition.

(Column 5, lines 3-18 of Chen)

In Chen, each row corresponds to an instance of the resource such as a network link, communication session, network adapter, or the like of the Managed Device, and columns are attributes or object types in SNMP terms (name, status, counter, etc.) that characterizes the resource represented by the corresponding row (column 2, lines 31-44 of Chen). Accordingly, in Chen, whenever a data request for a certain resource is received, the entire data (all of the columns) for that resource (row) is retrieved. Since the entire row (all columns) are automatically retrieved regardless of a type of the request

(i.e., which of the attribute data is requested), there is no need to determine any match of the request in Chen.

Furthermore, Chen's data retrieval is based on the resources (rows), not expected requests. That is, if a data request for a different resource (i.e., specifying a new row) is received, the entire data of the new row is retrieved and the existing data is discarded. This is because Chen only anticipates or assumes that a subsequent request is for another column in the same row (a different attribute of the same resource). Chen does not define or store any pattern of request. Accordingly, Chen also fails to disclose or teach a pattern of request defined in a memory, which includes one or more expected management data requests, and further fails to disclose or teach collecting data responsive to any remaining network management data requests in the matched pattern, if the first network management data request matches a pattern defined in the memory, as recited in claim 74.

Williams only relates to browsing of web pages by a user, as mentioned above, and a URL in a user's page request cannot be a pattern of request defined and stored in a memory, which includes one or more expected management data request, as recited in claim 74.

Accordingly, Chen, whether considered alone or combined with or modified by Williams, does not teach or suggest determining if a received first network management data request matches a pattern of request defined in a memory, the pattern including one

or more expected management data requests, and if the first network management data request matches a pattern defined in the memory, collecting data responsive to any remaining network management data requests in the matched pattern, as recited in claim 74.

Other independent claims 82, 90, and 98, as amended, includes substantially the same distinctive features. Accordingly, it is respectfully requested that the rejection of claims based on Chen and Williams be withdrawn.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Dependent Claims

Claims 75 and 77-80 (and new claim 106) depend from claim 74, claims 83 and 85-88 (and new claim 107) depend from claim 82, claims 91 and 93-96 (and new claim 108) depend from claim 90, and claims 99 and 101-104 (and new claim 109) depend from claim 98, and thus include the limitations of the corresponding independent claims. The argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable at least for the same reasons.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-1698.

Respectfully submitted,
THELEN REID & PRIEST, LLP

Dated: July 10, 2006



Masako Ando
Ltd. Rec. No. L0016

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040

SV #252574 v1